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exclude an implied warranty on a subject wholly different from the express warranty. *Barber & Son v. Singletary*, 13 Ga. App. 171, 78 S. E. 1100; *Pew Co. v. Karley*, 154 Iowa 559, 134 N. W. 529; *Fruit and Truck Ass'n v. Hartman*, 146 Mo. App. 155; *Bucy v. Pittsburg Agri. Works*, 89 Ia. 464; *Merriam v. Field*, 24 Wis. 640. Where the express warranty relates merely to the size, condition or quality of the machine, an implied warranty of fitness is not excluded. *Snyder v. Holt Mfg. Co.*, 134 Cal. 324; *North Alaska etc. Co. v. Hobbs, etc. Co.*, 159 Cal. 381; *Cook v. Darling*, 160 Mich. 475; *Boukware v. Manufacturing Co.*, 152 Mo. App. 567; *Blackmore v. Fairbanks, Morse & Co.*, 79 Ia. 282. In the principal case, the court held that the provision regarding the exclusion of all implied warranties was ambiguous, and gave effect to the evident intent of the parties.

TRUSTS—CONSTRUCTIVE TRUST OF STOLEN PROPERTY.—Defendant was a foreman in plaintiff's gold mine and had the care of sluice boxes containing gold dust and nuggets; he stole some of this gold and sold it, receiving therefor money and a bank draft which were found on his person when he was arrested for the larceny, and which passed into the custody of the clerk of the court in which he was tried and convicted. Upon defendant's request that the court return the money and draft to him, plaintiff filed its bill asking that defendant be declared a trustee of the same for plaintiff's benefit. *Held*, that equity would impress a trust on such property in favor of the beneficial owner, so long as it had not passed into the hands of a bona fide holder for value, without notice. *Pioneer Mining Co. v. Tyberg*, (C. C. A. 9th Circuit 1914) 215 Fed. 501.

The case clearly illustrates the elastic quality of equitable doctrines and is supported by *Aetna Indemnity Co. v. Malone*, 89 Neb. 260; *Nebraska Nat'l Bank v. Johnson*, 51 Neb. 546; *Borchert v. Borchert*, 132 Wis. 593; *Lightfoot, v. Davis*, 198 N. Y. 261; and *Newton v. Porter*, 69 N. Y. 133. It would indeed seem, as remarked by the court in the case last cited, "to be an anomaly in the law, if the owner who has been deprived of his property by a larceny, should be less favorably situated in a court of equity, in respect to his remedy to recover it, or the property into which it had been converted, than one who by an abuse of trust has been injured by the wrongful act of a trustee, to whom the possession of trust property has been confided." But such has not always been the view of the courts of that state, *Pascoag Bank v. Hunt*, 3 Edw. Ch. 583. Few cases other than those cited in the principal case have been found where the same question was passed on. Another Nebraska case in point is that of *Lamb v. Rooney*, 75 Neb. 322. See also *Farmers' & Traders' Bank v. Kimball M. Co.*, 1 S. D. 388. Cases analogous in principle but differing on their facts have frequently given rise to the application of the doctrine of constructive trusts. Such are those holding that land or money obtained by fraud, artifice, etc., will be impressed with a trust for the benefit of those defrauded. *Morse v. Vyse*, 154 Mich. 253; *Ruhe v. Ruhe*, 113 Md. 595; *Watson v. Harris* (Tex. Civ. App.) 130 S. W. 237; *Morris v. Kendall*, 48 Ind. App. 304; *Batty v. Greene*, 206 Mass 561; *Ragsdale v. Ragsdale*, 68 Miss. 92; *Gilpatrick v. Glidden*, 81 Me. 137.